**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE S.SIRI JAGAN**

**TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928**

**OP.No. 16514 of 2001(N)**

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**PETITIONER:**

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**BENNY JOSEPH, S/O.JOSEPH SCARIA,**
**AGED 29 YEARS, KAIPPALLYP.O.,**
**POONJAR, KOTTAYAM DISTRICT.**

**BY ADV. SRI.SREEPRAKASH K.NAIR**

**RESPONDENTS:**

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1. **STATE OF KERALA, REP.BY**
**CHIEF SECRETARY, GOVERNMENT SECRETARIAT,**
**THIRUVANANTHAPURAM.**

2. **DIRECTOR GENERAL OF POLICE,**
**THIRUVANANTHAPURAM.**

3. **SUPERINTENDENT OF POLICE, KOTTAYAM.**

4. **REGHU CHIRAYATH, POLICE CONSTABLE,**
**EERATTUPETTA POLICE STATION,**
**KOTTAYAM DISTRICT.**

.5. **VIJAYAN PULIKKAL, POLICE CONSTABLE,**
**EERATTUPETTA POLICE STATION,**
**KOTTAYAM DISTRICT.**

6. **SABU C.S., POLICE CONSTABLE,**
**EERATTUPETTA POLICE STATION,**
**KOTTAYAM DISTRICT.**

7. **MOHANAN, POLICE CONSTABLE,**
**EERATTUPETTA POLICE STATION,**
**KOTTAYAM DISTRICT.**

**BY GOVERNMENT PLEADER SRI.SURARSHAN**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**S. SIRI JAGAN, J.**

**O.P. No. 16514 OF 2001 N**

**Dated this the 2nd day of January, 2007**

**J U D G M E N T**

In this original petition, the petitioner complains that he has been brutally tortured by the police, as a result of which he has sustained very serious injuries and had to be treated in various hospitals. In the above circumstances, the petitioner has approached this court seeking the following reliefs:

> (i) issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st respondent to pay the petitioner an amount of Rs.10,00,000/- towards compensation for custodial torture meted out to him by respondents 4 to 7;
>
> (ii) issue a writ of mandamus or any other appropriate writ, order or direction directing respondents 1 to 3 to prosecute respondents 4 to 7 under section 330 of the Indian Penal Code for custodial violence against the petitioner;
>
> (iii) punish respondents 4 to 7 under the provisions of the Contempt of Court Act for violating the procedure provided in case of arrest of citizens in the case of Ashok K. Johri Vs. State of U.P. (AIR 1977 SC 610);
>
> (iv) direct the respondents 1 to 3 to realize the compensation which may be awarded to the petitioner by this Hon'ble Court, in the event of finding that the petitioner is entitled to compensation from respondents 4 to 7.

2. I am afraid that none of these reliefs can be granted in proceedings under Article 226 of the Constitution of India. With regard to the claim for compensation, the petitioner has to prove by adducing evidence that he has suffered injuries on account of torture by the police, which is sadly lacking in the pleadings before me. With regard to the proceedings under the Indian Penal Code, the petitioner has ample remedies as provided under the Code of Criminal Procedure for seeking redressal of his grievances before the appropriate criminal court. The Circle Inspector of Police, Irinjalakkuda has filed a statement, wherein he has categorically denied that the petitioner has been subjected to custodial torture. In the above circumstances, I do not find any merit in the original petition and accordingly the same is dismissed. However, I make it clear that the dismissal of this original petition would not be a bar for the petitioner to seek other remedies available under law.

**(S. SIRI JAGAN, JUDGE)**

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**S. SIRI JAGAN , J.**

**OP No.16514/01 N**

**J U D G M E N T**

**2nd January, 2007**